IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 4916 of 2007(I)

PETITIONER:

Y.BABU, DIVISIONAL ACCOUNTANT (RTD),
K.S.E.B., CIVIL CIRCLE, KAKKAYAM,
RESIDING AT ANUGRAHA, VELLAMKULAMGARA,
HARIPAD P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:

---

1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VIDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD,
VIDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

3. ACCOUNT OFFICER (PENSION AUTHORISATION),
OFFICE OF THE CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD,
VIDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

4. EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, MAVELIKKARA.

BY ADV. SRI. ASOK M.CHERIYAN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON 10/10/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF the RELEVANT PORTION OF THE APPLICATION FOR PENSION DATED 15/09/2006 SUBMITTED BY THE PETITIONER.

P2 : COPY OF THE G.O.(P) NO. 369/87/Fin. DATED 31/03/87.

P3 : COPY OF the B.O.NO. ESTT.IV/16033/87/Fin. DATED 25/07/89.

P4 : COPY OF THE G.O.(P) NO. 298/89/Fin. DATED 17/06/89.

P5 : COPY OF THE B.O.No. ESTT.IV/16033/87 DATED 25/08/89.

P6 : COPY OF THE B.O.(FB) NO. 2574/2005/(ESTT.IV/RECKONING SERVICE/2005) DATED 01/09/05.

P7 : COPY OF THE ORDER NO.PA IX/PPO 35660 DATED 18/01/07 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF THE MEMORANDUM OF THE DISTRICT TRANSPORT OFFICER, KAYAMKULAM DATED 10/10/1997.

R1(b) : COPY OF THE RELEVANT PAGES OF THE SERVICE BOOK OF THE PETITIONER.

// TRUE COPY //

PA TO JUDGE.

jg

V.GIRI, J.

WP(C) No. 4916 of 2007

Dated, this the 10th day of October, 2007

J U D G M E N T

The petitioner was appointed as a reserve conductor on daily wages in the Kerala State Road Transport Corporation as per Ext. R1(a) order dated 10/10/1977, pursuant to the selection and advice by the Kerala Public Service Commission. Ext.R1(a) shows that the appointment was provisional and was terminable without notice, on expiry of the vacancy but will be continued if a vacancy is available, provided, his work and conduct are satisfactory.

2. The petitioner continued as a reserve conductor on daily wages till 14/10/1979. He was absorbed as a conductor grade II with effect from 15/10/1979. He continued in the KSRTC till 31/12/1979. He joined the services of Kerala State Electricity Board on 01/01/1980.

3. He was retired from service on 30/11/2006 as a Divisional Accountant. He submitted his pension papers as per Ext.P1 application. He wanted the pension to be computed by reckoning his services as a reserve conductor grade II in the KSRTC from 10/10/1977 to 31/12/1979 also. The Board agreed to take

into account his services in the KSRTC from 15/10/1979 to 31/12/1979, but refused to take into account the services prior to 15/10/1979. This action on the part of the KSE Board is challenged in the writ petition.

4. In the counter affidavit filed by the KSE Board, it is contended that the petitioner was functioning as a reserve conductor grade II on daily wages from 10/10/1977 to 14/10/1979 and he was absorbed as conductor grade II with effect from 15/10/1979. The services as a reserve conductor grade II from 10/10/1977 to 14/10/1979 is non-qualifying service for the purpose of pension. Therefore, the period from 10/10/1977 to 14/10/1979 was excluded.

5. I have heard the learned counsel for the petitioner Adv. Shri. P.M.Pareeth and the learned senior Standing Counsel for the Kerala State Electricity Board Adv. Shri.Asok M.Cherian.

6. The petitioner pointed out, the Board has, as evidenced by the endorsement contained in Ext.R1(b) service book made by the competent authority of the Department, treated the services in KSRTC from 10/10/1977 to 31/10/1979 as qualifying service for the purpose of pension and submitted that the Board cannot thereafter exclude any portion of the service in the KSRTC for the purpose of

computing the pension.

7. In my opinion, the issue to be decided is as to whether the services from 10/10/1977 to 14/10/1979 rendered by the petitioner in the KSRTC as reserve conductor grade II can be treated as a pensionable service. This issue has not been specifically considered by the KSE Board.

8. In the circumstances, this writ petition is disposed of directing the 2nd respondent to decide the question as to whether the services rendered by the petitioner from 10/10/1977 to 14/10/1979 as a reserve conductor grade II in the KSRTC can be treated as pensionable service. If it is to be treated so, then the petitioner's contention, that the same should also to be taken in to account for computing his pension, is eligible to be accepted. The petitioner shall file a representation in this regard pointing out all the relevant aspects within a period of one month from the date of receipt of a copy of this judgment. Reference may be made to Exts.P1 & P3. Thereupon, decision shall be taken by the Chief Engineer within a period of two months thereafter, after affording an opportunity of being heard to the petitioner.

(V.GIRI, JUDGE.)

jg